

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
Toll Free Service Access Codes) CC Docket No. 95-155

To: The Commission

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COMMENTS
OF
THE AMERICAN PETROLEUM INSTITUTE

The American Petroleum Institute, ("API"),^{1/} by its attorneys, hereby submits its Comments, in response to the Notice of Proposed Rulemaking adopted in the above-referenced proceeding (FCC 95-419, released on October 5, 1995) ("NPRM"), which addresses the broad array of issues associated with new toll free access codes.

^{1/} API is a national trade association representing approximately 300 companies involved in all phases of the petroleum and natural gas industries, including exploration, production, refining, marketing, and transportation of petroleum, petroleum products and natural gas. Among its many activities, API acts on behalf of its members as spokesperson before federal and state regulatory agencies. The API Telecommunications Committee is one of the standing committees of the organization's Information Systems Committee. The Telecommunications Committee evaluates and develops responses to state and federal proposals affecting telecommunications facilities used in the oil and gas industries.

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1. API member companies use toll free (800) service in marketing, customer relations, data processing (credit card validation, principally), and in connection with emergency response and notification applications. The NPRM highlights the numerous issues and concerns associated with the implementation of new toll free access codes. The end result should be an efficient, cost-effective system that accommodates the reasonable expectations of end-users, their customers and carriers. It should also create disincentives for continued operations of third-party toll free number brokers. In fact, brokering should be prohibited. This activity does not serve the public interest.

2. The deployment of the 888 toll free access code should not be disruptive to the business relationships and marketing efforts that are premised on toll free calling. The interests of both existing 800 service subscribers and new 888 code subscribers must be addressed. In this regard, the NPRM is wide of the mark in framing the issues on so-called vanity numbers and high volume 800 numbers. In contrast to the NPRM, existing 800 service subscribers and new 888 subscribers do have substantial shared interests with regard to these numbers. Thus, the extensive discussion in the NPRM on proprietary rights and 800 numbers is not relevant, except with regard to the number brokers.

3. Fundamentally, the existing 800 number and new toll free access code subscribers want to avoid confusion in the marketplace at all costs. Companies that have implemented, finalized, or are formulating business plans or marketing efforts based on toll free inbound calling do not want their target customers calling the wrong telephone number. When viewed from this perspective, "vanity" and "high volume" 800 numbers are the least desired seven digit numbers for "new" 888 code subscribers, except in those circumstances where the new subscriber's marketing objective is to steal business from the 800 vanity number subscriber. The confusion factor will not only result in lost business opportunities, but will lead to increased costs through inflated inbound calling bills. Neither AT&T, MCI, Sprint nor any other 800 service carrier has offered rebates or offsets for misdirected toll free inbound calls. These considerations should guide the Commission's decision in this proceeding with regard to these "critical" 800 numbers.

4. Accordingly, the auction proposal does not make sense. The use of auctions to make PCS assignments is not the model for assigning toll free inbound telephone numbers. The prospective 888 number customers have little incentive to use vanity and high volume 800 numbers. The use of these numbers by new 888 code subscribers has the greatest potential to impact business plans adversely and increase

costs. Requiring either the existing 800 subscriber or the new 888 code subscriber, or both, to bid on these numbers is counterintuitive and not sound policy. Further, the Commission does not have the express statutory authority to mandate auctions of telephone numbers. The implications for auctioning telephone numbers are enormous, as well.

Auctions will encourage third party speculation by brokers which should be avoided at all costs. There is no compelling public interest to force businesses, new or old, large or small, to bid against each other for telephone numbers. While not infinite, toll free telephone numbers cannot be characterized as a scarce national resource such as RF spectrum. On the other hand, API recognizes that a modest fee to cover the projected costs of toll free number assignment and administration may be warranted.

5. API therefore supports the proposal of establishing a right of first refusal, with a reservation system, for subscribers of critical 800 numbers. Critical 800 numbers would encompass the so-called vanity numbers and other high volume numbers designated by existing subscribers. These numbers must be "in use" and, perhaps, even in use for a substantial period of time. Assigned or reserved toll free numbers which are not "in use" should not qualify for critical number status. The number assignment process for the 888 code would exclude these critical 800

numbers or assign these numbers last, subject to the right of first refusal. Contrary to theoretical concerns raised in the NPRM, the more reasonable expectation is that existing 800 number subscribers will request reservation of only a small percentage of currently assigned 800 numbers.

6. API urges the Commission to remain flexible and not necessarily commit to finalizing all the rules for all new toll free codes at this time. The number of critical 800 numbers which users seek to reserve may well be a small fraction of the total. The acceptance of Personal Identification Numbers (PINs) in connection with paging and other specialty applications may well slow the rate of number utilization. Thus, the concern over the cascading effect of significant volumes of critical numbers onto other toll free access codes may well prove to be misplaced.

7. On the other hand, the Commission is urged not to implement an assignment scheme based on the industrial classification code of existing and new toll free code subscribers. This approach could become an administrative quagmire at worst and a resource-intensive process at best. This burden should not be imposed on the numbering plan administrator.

8. The NPRM inadvertently downplays the role of the industry's need to inform the public of implementation of the new toll free access code. The lionshare of the responsibility and cost of this effort should be borne by the carriers offering inbound toll free service. These firms are the major, direct beneficiaries of the new codes. The carriers will receive the revenue generated by the use of the new codes. Thus, these carriers should be obligated to minimize customer confusion inasmuch as the carriers' subscribers will be obligated to pay for any misdirected calls, absent a special refund or rebate program. The effort being instituted today in connection with new area code deployment should provide the yardstick for customer awareness programs in regard to new toll free access codes. With the economic incentives tilting in favor of a minimalist approach, the Commission should encourage, prompt, and, if necessary, direct the carriers to engage in an aggressive public awareness effort to minimize customer confusion in regard to new toll free access codes.

WHEREFORE, THE PREMISES CONSIDERED, The American Petroleum Institute urges the Federal Communications Commission to adopt rules for the implementation of new toll

free service access codes consistent with the views
expressed herein.

Respectfully submitted,

THE AMERICAN PETROLEUM INSTITUTE

A handwritten signature in dark ink, appearing to read "C. Douglas Jarrett", is written over a horizontal line.

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